IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9075 OF 2007

Kelloggs India Pvt. Ltd. ..Petitioner.
Vs.
The Union of India and ors. ..Respondents.

Mr.D.B.Shroff i/by M/s. DSK Legal for the Petitioner.

Mr.A.S.Rao with Y.S.Bhate and H.P.Chaturvedi for the Union of India.

CORAM : F.I. REBELLO & R.S. MOHITE, JJ.
DATED : 20TH DECEMBER,2007.

PC :

1. Rule.

2. Heard forthwith.

3. It is the case of the petitioner that the issue pertaining to classification is pending before the Tribunal and scheduled for hearing on 7.1.2008. In the mean time, it is pointed that though this fact was pointed out to the Commissioner of Appeal an order has been passed directing pre deposit of 50% of the amount. Matter had gone back to the Commissioner (Appeals) pursuant to the order of this court.

4. Considering the controversy, petition can be disposed of by issuing the following directions.

a) If the Tribunal dismisses the appeal the respondent will be bound to comply with the order of Commissioner (Appeals) for deposit.

b) In the mean time, order of the Commissioner not to be given effect and the appeal to he beard without pre deposit in its regular course. It would be advisable if the appeal is heard after ITAT decides the issue of classification.

5. Rule made absolute accordingly.

6. No order as to costs.

(R.S. MOHITE, J.) **(F.I.REBELLO, J.)**